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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

IRAN

1. The Committee considered the initial report of Iran, Islamic Republic of, (E/1990/5/Add.9) at its 7th, 8th, 9th and 20th meetings, held on 18, 19 and 28 May 1993, and adopted* the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for its willingness to cooperate with the Committee and for engaging in a dialogue with the Committee. The Committee notes with satisfaction that some of the concluding observations formulated by the Committee at its fifth session (E/1991/23, paras. 209-212) have been given consideration by the Government of Iran and that, as requested by the Committee, the report under consideration also contains information relating specifically to the implementation of article 15 of the Covenant as well as information concerning the situation of women in Iran. At the same time, the Committee finds that the report, being essentially legalistic, does not include sufficient information about the implementation of the Covenant in practice and about factors and difficulties which might impede the application of the Covenant. Moreover, the report does not provide sufficient information on the implementation of articles 1 to 5 of the Covenant. In view of the foregoing, the Committee welcomes the oral

* At its 20th meeting (eighth session), held on 28 May 1993.

replies and clarification provided by the delegation of the State party that, to some extent, supplemented the information provided in the written report and permitted the Committee to obtain a clearer picture of the degree of implementation by the Government of Iran of the provisions of the Covenant.

B. Positive aspects

3. The Committee notes that the rate of unemployment, which had risen to 15 per cent as a result of the war with Iraq has, in the four years since the end of the war, fallen to 10 per cent; that under new labour legislation annual leave has been increased from 12 to 30 days and that the minimum age for employment has been raised from 12 to 15 years; that the Ministry of Labour has established a countrywide network of labour inspectors whose task is to ensure compliance with Labour regulations and who have the authority to shut down part or whole of an enterprise in which safety measures are considered inadequate.

C. Factors and difficulties impeding the application of the Covenant

4. The Committee notes that the written report submitted by the Government of Iran contains no information on the factors and difficulties affecting the degree of fulfilment of its obligations under the present Covenant as required by article 17 (2) of the Covenant. However, the Committee observes that various articles of the Constitution of Iran subject the enjoyment of universally recognized human rights, including economic, social and cultural rights, to such restrictions as: "provided it is not against Islam" (art. 28); "with due regard to Islamic standards" (art. 20); "in conformity with the Islamic criteria" (art. 20); and "except when it is detrimental to the fundamental principles of Islam" (art. 24). In that connection the Committee considers, in the light of the Covenant provisions and of all the information available to it, that such restrictive clauses negatively affect the application of the Covenant, in particular its articles 2 (2) (non-discrimination), article 3 (equality of rights of men and women), article 6 (right to work), article 12 (right to health), article 13 (right to education) and article 15 (right to take part in cultural life). It is apparent that the authorities in Iran are using the religion as a pretext in order to abuse these rights.

D. Principal subjects of concern

5. The Committee regrets that the documentation made available to it by non-governmental organizations and the report of the Special Rapporteur of the Commission on Human Rights, Mr. Renaldo Galindo Pohl (E/CN.4/1993/41), confirm the broad consensus that there has been practically no progress in ensuring greater respect and protection for rights of the non-Muslim religious communities in the Islamic Republic of Iran in general, and of the economic, social and cultural rights of persons belonging to those minority groups in particular. The Committee draws again the attention to the following concerns

expressed at its fifth session in 1990 about the situation of certain minority groups, which have not been satisfactorily answered in the course of the present session:

(a) Violation of the rights of the Baha'i community;

(b) Violation of economic, social and cultural rights in addition to violation of political and civil rights;

(c) Discrimination on religious grounds in the educational system;

(d) Insufficiency of the education offered to the children belonging to the Kurdish minority;

(e) Prohibition of the admission to university of Baha'is;

(f) Restriction of freedom of debate and choice in the university institutions;

(g) The situation of the Kurds and the disparities that exist between the different ethnic and economic groups in the enjoyment of their rights to education, to work, to travel, to housing and to the enjoyment of cultural activities.

6. The Committee expresses its particular concern with respect to the non-performance by the Government of Iran of its obligation under article 3 of the Covenant, under which the States parties undertake to ensure the equality of men and women to the enjoyment of all economic, social and cultural rights set forth in the Covenant. In that connection the Committee finds that the situations: in which women are not permitted to study engineering, agriculture, mining or metallurgy or to become magistrates; in which they are excluded from a very large number of specific subjects at university level; and in which they need their husbands' permission to work or travel abroad; to be incompatible with the obligations undertaken by the State party under the Covenant. The Committee seeks further clarification as to which women's rights have been "revived" in accordance with article 20 (i) of the Constitution.

7. In relation to the right to take part in cultural life, the Committee would also like to have more precise information on legislation and policies protecting creative freedom. In particular, the Committee expresses its grave concern at the negative implications for this right of the issuance of fatwahs. During the Committee's examination of the report, several members drew attention in this regard to the case of an author, Mr Salman Rushdie. While appreciating that fatwahs are issued by the religious authorities and not by State organizations per se, the question of State responsibility clearly arises in circumstances in which the State does not take whatever measures are available to it to remove clear threats to the rights applicable in Iran in consequence of its ratification of the Covenant. The Committee calls upon the Government of Iran to affirm that it rejects the acceptability, in terms of its international human rights obligations, of the issuance of such fatwahs. It also requests the Government to assure the Committee that if

such a fatwah were to be carried out in Iran, or elsewhere by an Iranian citizen, the Government would ensure the criminal prosecution of the individual(s) concerned.

E. Suggestions and recommendations

8. The Committee recommends that the State party should spell out a clear legislative, judicial and administrative basis for giving fullest possible effect to the provisions of the Covenant "with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures." (art. 2 (1) of the Covenant). The Committee invites the Government of Iran to undertake necessary steps, both legislative and practical, in order to ensure that the rights enunciated in the Covenant are able to be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, especially in the case of ethnic or religious minorities. The Committee notes that the obligation to ensure equal opportunity for women warrants particular attention, especially in relation to the right to work, family related rights and the right to education.

9. The Committee further recommends that the second periodic report of Iran should contain information not only on legislative measures adopted, but also on the application of these measures, on the difficulties encountered in the process of their implementation, and on the issues dealt with in the present concluding observations.

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COMMITTEE ON ECONOMIC, SOCIAL
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights:

VIET NAM

1. The Committee considered the initial report of the Socialist Republic of Viet Nam (E/1990/5/Add.10) at its 9th, 10th and 11th meetings held on 19 and 21 May 1993 and adopted 1/ the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for the submission of its report and its willingness to hold a frank and constructive dialogue on the situation of economic, social and cultural rights in the Socialist Republic of Viet Nam. It takes note with satisfaction of the full replies and oral explanations provided by the State party in connection with the written questions submitted to it.

3. The written report, the additional information provided by the representative of the State party and his oral replies to the questions asked by the members of the Committee give a clearer and up-to-date picture of the progress made and the difficulties impeding the realization of economic, social and cultural rights in Viet Nam.

1/ At the 19th meeting (eighth session), held on 27 May 1993.

B. Positive aspects

4. The Committee takes note with satisfaction of the information provided by the representative of the State party on the adoption in April 1992 of a new Constitution, which replaces the 1980 Constitution and embodies major advances as far as fundamental rights in the country are concerned. These changes are all the more obvious in that the initial report submitted by the State party on 23 January 1992 reflects the situation that existed prior to the entry into force of the new Constitution.

5. The Committee also received the information furnished by the State party on the drafting of the new Labour Code, which will, once adopted, introduce a number of necessary labour reforms and improvements.

6. The Committee welcomes the efforts made by the State party to implement a far-reaching programme of reforms to deal with the serious problems resulting from a lengthy war, which has wreaked havoc in the economy and the most vulnerable sectors of society.

7. In general, the Committee appreciates the fact that the report of the State party was introduced openly and frankly, without avoiding the problems which still exist and affect the full realization of economic, social and cultural rights in Viet Nam.

C. Factors and difficulties impeding the application of the Covenant

8. The Committee notes that the country's history of a lengthy war, its partition and subsequent reunification, and the complex process of transition from a centrally planned economy to a market economy, have created serious difficulties impeding the full application of the International Covenant on Economic, Social and Cultural Rights. Additional impediments include: high rates of inflation; the continuing subordination of women; a reliance upon child labour which jeopardizes their access to education; and a lack of resources to finance basic social security, health and education programmes. The Committee was also informed that difficulties have flowed from the persistent dependence on an agricultural economy based on the cultivation of a single crop.

D. Principal subjects of concern

9. The Committee expresses its concern about the absence of an independent and pluralistic trade union movement and the lack of clear and specific rules on the right to strike.

10. With regard to education, it notes that, despite the progress made, there is still no programme to guarantee free primary education. It also notes that there are high rates of absenteeism from school and a growing number of street children involved in unlawful activities, such as prostitution, drugs abuse and illicit trafficking in drugs.

11. The Committee notes that some types of discrimination were practised more or less systematically on the basis of preferences in favour of persons from certain groups, such as children of war victims and decorated families.

E. Suggestions and recommendations

12. In view of the positive developments that have taken place in the implementation of economic, social and cultural rights in the last few years of national reunification and, in particular, the adoption of the new Constitution on 15 April 1992, the Committee recommends that the State party should intensify its efforts to find a better and more effective solution to the problem of the enjoyment of such rights through internal measures and international cooperation, wherever such cooperation might be appropriate. In the Committee's view, particular efforts should be made to solve the problem of school absenteeism and the concentration of child labour at the expense of school attendance, as well as the problem of overwork by married women. Effective measures should also be adopted to reduce levels of malnutrition, especially among children; to improve the services of the social security system; to ensure the more rapid implementation of the new Labour Code; and, in general, to compensate for the effects on minorities and less privileged social groups of economic adjustments to promote the change to a free market society.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

AUSTRALIA

1. The Committee considered the second periodic report of Australia on articles 13 to 15 (E/1990/7/Add.13) at its 13th, 15th and 20th meetings (E/C.12/1993/SR. 13, 15 and 20) held on 24, 25 and 28 May 1993, and adopted 1/ the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for the comprehensive report and for the delegation sent to discuss the report, which serve as an indication of the seriousness with which the Government of Australia takes its obligations under the Covenant.

3. The Committee notes with appreciation that the excellence of the written report, the additional written information as well as oral responses to questions raised have enabled the Committee to obtain a clearer understanding of the State party's performance of its obligations under the Covenant.

B. Positive aspects

4. The Committee notes with satisfaction the efforts made within the federal structure of Australia to establish machinery to ensure compliance with the education related provisions of the Covenant. The Committee also notes with satisfaction that the State party, since the submission of its previous report to the Committee, has undertaken various initiatives and measures designed to redress imbalances in the provision of education for

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1/ At its 20th meeting (eighth session), held on 28 May 1993.

identified disadvantaged groups in Australia, including the Aboriginal and Torres Strait Islander populations, girls, persons with disabilites and minority groups. The Committee welcomes the fact that numerous studies or reviews have been undertaken or are in preparation on education related matters and that the findings of these studies are taken into account in the determination of educational policy and national action plans. The Committee finds of particular importance the development of a national strategy for equity in schooling, the impact on the teaching profession of the National Project on the Quality of Teaching and Learning, and the initiatives being taken concerning human rights education in curriculum development. The Committee also welcomes the development of appropriate indicators to monitor progress in the achievement of set objectives of national policy on education.

5. The Committee is encouraged by the development of programmes to promote multiculturalism and the recognition being placed on the racial and cultural differences in Australia.

C. Factors and difficulties impeding the implementation of the Covenant

6. The Committee notes that differences exist in legislation concerning education within the federal system of Australia. The Committee also notes that the State party has identified several groups as being disadvantaged with regard to the participation in education. In particular, the Committee notes that socio-economic factors and the isolation of certain Aboriginal and Torres Strait Islander communities constitute major difficulties in the implementation of the Covenant.

7. The Committee recognizes that limited resources and the geographic isolation of certain aboriginal communities have been the principal impediments in furthering cultural development and international contacts.

D. Principal subjects of concern

8. The Committee considers the situation of disadvantaged groups in the educational system to be of particular concern. The Committee specifically notes the situation of the Aboriginals and Torres Strait Islanders in education which affects their prospects for future employment, as well as the problems of illiteracy among the adults of this group, the majority of which did not have primary and secondary education.

9. The Committee is also concerned about the lack of opportunities available to persons with disabilities to fully enjoy their rights to education.

10. The Committee is concerned about the effects of funding accorded to non-government schools on the quality of education in government schools.

11. As regards the implementation of article 15 of the Covenant, the Committee expresses its particular concern that Aboriginals and Torres Strait Islanders do not have sufficient opportunities to fully involve themselves in creating awareness of their cultural heritage.

12. The Committee expresses concern over provisions of the Federal Customs Regulations which prohibit the importation of certain materials as referred to in paragraph 310 of the report. The practical application of these provisions could run counter to freedom of artistic creation and performance.

E. Suggestions and recommendations

13. The Committee underlines the importance, in the context of federalism in Australia, of close cooperation and coordination between different authorities and organizations for the effective implementation of the provisions contained in articles 13 to 15 of the Covenant.

14. The Committee suggests that activities be undertaken throughout the federal structure of Australia to sensitize society to the situation and different needs of persons with disabilities and other groups. As part of the efforts to be undertaken to change and influence attitudes towards vulnerable groups, the Committee recommends that further measures be taken to strengthen the human rights education component in formal and non-formal curricula.

15. The Committee considers it important that the State party take particular measures to involve different groups in the process of preparing reports for the Committee and in making these reports widely known and available to the public as well as to make available the summary records and concluding observations following the Committee's consideration of the report.

16. The Committee recommends that due attention be given to the development of indicators for measuring progress in the implementation of the rights covered by articles 13 to 15 of the Covenant. Information on the results and progress made in this area should be provided when the State party next reports to the Committee. In addition, the Committee emphasizes the importance of taking steps to monitor more closely the general situation of Aboriginals and Torres Strait Islanders and other disadvantaged groups particularly in education and culture. The Committee therefore appreciates that the Government of Australia is fully aware of the difficulties impeding the implementation of the Covenant.

17. The Committee emphasizes the appropriateness of the efforts being undertaken by the Government to identify the needs of disadvantaged groups and to continue to draw on the results of studies and reviews in the development of policy initiatives to respond to the needs of such groups. The Committee underscores the importance which it attaches to the economic, social and cultural rights of persons with disabilities and of the elderly and therefore urges the Government to direct major efforts towards assessing and addressing the needs of these groups in relation to their rights under articles 13 and 15 of the Covenant.

18. The Committee appreciates the expression of commitment by the Government to implement equity in schooling as a matter of public responsibility, and thus recommends that legislative efforts be undertaken to eliminate remaining obstacles in the equitable access to educational establishments.

19. The Committee would welcome information, in the next report of the State party on the implementation of articles 13 to 15 of the Covenant, on any differences identified in the quality of education between government and non-governmental schools.

20. The Committee recommends that action be taken to provide Aboriginal artists with opportunities to participate in international fora in order to promote awareness in their indigenous culture.